



Commonwealth  
of Massachusetts

## *OCPF Online*

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*Office of Campaign and Political Finance*

*One Ashburton Place, Room 411*

*Boston, MA 02108*

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### Advisory Opinion

September 30, 1999

AO-99-15

Timothy J. Toomey, Jr.  
City Councillor  
Cambridge City Council  
City Hall  
Cambridge MA 02139

Re: Use of City resources to provide local candidates with access to City's Web site

Dear Councillor Toomey:

This letter is in response to your September 8, 1999 request for an advisory opinion regarding use of the City of Cambridge (City) Web site to post information regarding candidates.

This office recently issued an advisory opinion to the City Solicitor of Cambridge regarding the City's proposal to provide local candidates with links to the City's Web site. See AO-99-14. The office stated that the City could provide links from the City's Web site to candidate sites if candidates provide the City with their Web address. One of the questions asked was "may City resources be used to provide assistance to any such certified candidate to publish information on that person's candidacy?" Because other parts of the City's letter related to providing links to candidates, the office answered the question by stating that the City may not provide training on Web site development to candidates or political committees.

You have stated, however, that your proposed City Council order, which was the basis for the questions posed by the City Solicitor leading to AO-99-14, anticipated that candidates without a Web site would be offered the opportunity to provide information to be included on the City's Web site. The Web site would include a category entitled "1999 Candidate Information" (or a similarly titled category). This would link to a page that would either provide links to Web sites maintained by a candidate or the candidate's committee, *or, for those candidates without a Web site, a place where information on that person's candidacy could be submitted by the candidate and posted by the City.*

You have also stated that your proposed order is intended to allow equal access by all candidates, "leveling the playing field" for those candidates without the ability or finances to develop

and maintain a Web site. Therefore, you envisioned that candidates could submit material on disk to the City's webmaster, or, for those without access to a computer, that the same material could be submitted in printed form which could easily be scanned. In either case, the use of City resources would be minimal. You expect that the City would establish reasonable rules for the amount of information a candidate could include on this site.

### *Question*

May the City provide candidates with a place on the City's Web site to post information provided to the City by the candidate on a disk or submitted in printed form and scanned by the City's webmaster?

### *Answer*

Yes, but candidates, regardless of whether they own or have access to a computer, should be given the opportunity of either having the City provide a link to their own Web site or having the City provide space for their material on the City's Web site, but not both. The opportunity must be provided on an equal basis to all candidates.

### *Discussion*

Certain City resources may be provided to candidates if "equal access" is provided to other candidates. See Anderson v. City of Boston, 376 Mass. 178 (1978), appeal dismissed, 439 U.S. 1069 (1979) and IB-91-01. Such resources may be provided only if the extent of the resources used is minimal and there is a legitimate public purpose for such use, e.g., resources may be used to promote voter participation. Public resources may not be used primarily for the purpose of benefiting candidates. In addition, to avoid possible violation of the principles articulated in Anderson, municipalities should not enter into arrangements with candidates, even if there is equal access, which require substantial expenditure of public resources or the provision of services to candidates. See AO-99-14, in which the office stated that providing services such as training on Web site development to candidates raises concerns because it would be difficult to monitor such an arrangement to ensure that all candidates are treated equally.

The proposed arrangement, with the limitations discussed below, would comply with the standard described in AO-99-14 because it would not appear to involve substantial expenditure of public resources and would ensure that equal access is provided to all candidates.

The campaign finance law does not prohibit a city's desire to make its Web site equally available to all candidates for legitimate governmental purposes. See AO-99-06, in which the office has stated that "in many respects, a town's Web site is similar to a town's bulletin board." If equal access exists, a city may establish a policy for the purpose of increasing voter participation, which would allow candidates to post information on a city hall bulletin board (if the information does not relate to fundraising). Similarly, a policy may be established enabling candidates to post information on a city's Web site, if equal access exists and the information provided by candidates does not contain a solicitation for funds.<sup>1</sup>

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<sup>1</sup> In Anderson, the Court emphasized that the campaign finance law demonstrates "a general legislative intent to keep

The City should specify that candidates, *regardless of whether they own or have access to a computer*, have the opportunity of receiving a link from the City's Web site or having space provided on the site, but not both. In addition, the City should adopt a policy which ensures that information is posted in a timely manner,

i.e., within a certain time frame after receipt of a request for a link to the City's Web site or printed material or a disk from a candidate. Also, the City should specify that information that is provided for posting on the City's Web site may not exceed a given length and that the City will not be responsible for proofreading and correcting submissions. Finally, the City should inform Web site users, i.e., the public using the Web site, that the site is available to all candidates by link or by providing a disk or printed information. In addition, the City should inform users that the City is not endorsing any candidate, and that candidates have provided all information appearing in this section of the City's Web site and on the candidates' own Web pages.

Although the City should not edit the information provided by candidates, the campaign finance law would not prohibit the City from adopting certain rules regarding the information made available in printed form or on disk for inclusion on the City's Web site. For example, the City may adopt a policy prohibiting obscenity or restricting references to other candidates. See AO-99-02 (stating that a newspaper could offer free space on its Web site with certain editorial restrictions, e.g., a restriction that advertisements in the final week of a campaign could not mention opponents by name). Such a rule would have to be applied equally to all candidates providing printed information or disks. In addition, as noted above, the campaign finance law would prohibit fundraising on the City's Web site, even if it would not prohibit fundraising on candidates' Web pages.

This opinion is issued on the basis of your letter and solely within the context of the campaign finance law. I encourage you to contact us in the future if you have further questions regarding any aspect of the campaign finance law.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan  
Director

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political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls.” 376 Mass. at 186-187. Consistent with that intent, the information on the City's Web site should not include solicitations for contributions. See also M.G.L. c. 55, s. 14, prohibiting fundraising in buildings or parts thereof occupied for municipal purposes. In contrast, candidates who have their own Web pages may have fundraising solicitations in their own Web pages, even if they obtain a link to the City's Web page. We recognize that this may be inconsistent with your goal of creating a “level playing field.” To create a truly level playing field while still allowing use of its Web site to disseminate candidate information, the City would need to limit the options available to all candidates to providing a disk or printed material and could not provide links to candidate Web sites.